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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER HIGGINS, GERARD T				
ART UNIT 1794		PAPER NUMBER		
NOTIFICATION DATE 04/30/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary

Application No.

10/575,239

Applicant(s)

SHIOZAKI ET AL.

Examiner

GERARD T. HIGGINS

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 18-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date See Continuation Sheet
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :04/10/2006, 04/30/2008, and 08/05/2008.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-17, 23, and 24 in the reply filed on 02/27/2009 is acknowledged.
2. Claims 18-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 02/27/2009.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Oath/Declaration

4. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

Applicants identify PCT/JP2004/014969 as a prior foreign application and have claimed priority under 35 U.S.C. 119 to said application; however, this appears to be incorrect as that international application is the parent application to which this US

application claims benefit as a national stage entry under 35 U.S.C. 371. This objection can be overcome by deleting the reference to PCT/JP2004/014969 as a "prior foreign document" and filing a new oath or declaration. The Examiner notes that the pending application still gains the benefit of the October 8, 2004 Application date, since the pending Application has been clearly noted as a 371 of PCT/JP2004/014969. Therefore, notation of PCT/JP2004/014969 as a "prior foreign document" appears to be both redundant and improper.

Claim Objections

5. Claim 12 is objected to because of the following informalities: the claim is awkward because it is unclear whether or not the claim contains a Markush group. The Examiner will be interpreting the claim as not being drafted as a Markush group, and therefore the Examiner notes that "and an oxygen atom" also renders the claim awkward. This objection can be overcome by changing this phrase to "or an oxygen atom." Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 1, 2, 13-17, 23, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 2, 13-17, 23, and 24 are indefinite for claiming the invention in terms of physical properties rather than the chemical or structural features that produce said properties. *Ex parte Slob*, 157 USPQ 172, states, "Claims merely setting forth physical characteristics desired in an article, and not setting forth specific composition which would meet such characteristics, are invalid as vague, indefinite, and functional since they cover any conceivable combination of ingredients either presently existing or which might be discovered in the future and which would impart said desired characteristics." Also, "it is necessary that the product be described with sufficient particularity that it can be identified so that one can determine what will and will not infringe." *Benger Labs, Ltd v. R.K. Laros Co.*, 135 USPQ 11, *In re Bridgeford* 149 USPQ 55, *Locklin et al. v. Switzer Bros., Inc.*, 131 USPQ 294; furthermore, "Reciting the physical and chemical characteristics of the claimed product will not suffice where it is not certain that a sufficient number of characteristics have been recited that the claim reads only on the particular compound which applicant has invented." *Ex parte Siddiqui*, 156 USPQ 426, *Ex parte Davission et al.*, 133 USPQ 400, *Ex parte Fox*, 128 USPQ 157.

Applicants' claim 1 is recited using properties of the recording layer before and after recording onto said layer with no limitation directed to the explicit materials capable of achieving the claimed properties. While the Examiner acknowledges that claiming an invention by properties is acceptable, there must still be sufficient structure to describe the claimed invention with sufficient particularity that it can be identified so that one can determine what will and will not infringe. There are a myriad of potential compounds

which read on these limitations, and therefore claims 1, 2, 13-17, 23, and 24 are indefinite for the reasons stated above.

Claim Rejections - 35 USC § 102

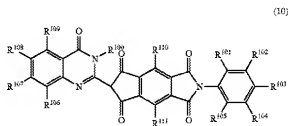
8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-17, 23, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Ogiso et al. (WO 03/035407) of which US 7,259,260 is a US national stage entry and will be used as a translation herein, as evidenced by STN search history.

With regard to claims 1, 3, and 5-10, Ogiso et al. disclose the imide compound of formula 10 (col. 65, lines 1-45).



This compound reads on applicants' organic compound of claims 1, 3, and 5-10. There is a six membered ring with 4 carbon atoms and 2 nitrogen atoms. There may be substituted or unsubstituted amino group at R₁₀₆ to R₁₀₉, including at R₁₀₈ which reads on claim 10 (col. 65, line 26). Although the double bonds are not identical to all of the

claimed structures, this compound is a tautomer of the structures seen in claims 5-10 (see col. 61 to 62). The Examiner clearly envisages the structures of applicants' claims 5-10, including the claimed substituents; furthermore, as evidenced by STN search history on pages 20-21 the compounds having the chemical numbers 516518-49-3 and 516517-86-5 read on structures seen in applicants' claims 5-10. The imide compound of formula 10 is formed onto a substrate to form a recording layer for an optical recording medium (col. 106, lines 13-24).

The limitations concerning the percentage change of the thickness of the recording layer before and after recording as well as the absolute change in thickness of the recording layer before and after recording are functional limitation(s). As defined in the MPEP, "[a] functional limitation is an attempt to define something by what it does, rather than by what it is (e.g., as evidenced by its specific structure or specific ingredients). There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971)" – MPEP § 2173.05(g). However, the Examiner notes that "where the Patent Office has reason to believe that a functional limitation asserted to be critical for establishing novelty in the claimed subject matter may, in fact, be an ***inherent characteristic of the prior art***, it possesses the authority to require the applicant to prove that the subject matter shown to be in the prior art does not possess the characteristics relied on" (emphasis added) - MPEP § 2173.05(g).

In the instant case, the claimed limitation(s) concerning the percentage change of the thickness of the recording layer before and after recording as well as the absolute change in thickness of the recording layer before and after recording are functional limitation(s) and are deemed to be an inherent characteristic of the prior art since the prior art is substantially identical in composition and/or structure. The Examiner's sound basis for this assertion is that the compounds disclosed in Ogiso et al. read on the compounds claimed by applicants.

The Examiner notes that the presently claimed invention also fails to explicitly recite any recorded data, merely requiring that the recording layer be "capable of" recording and playback. Since there is no explicit recitation of recorded data, the percentage change of thickness across the entire surface of the recording medium is necessarily 0%, reading on the claimed limitations. An amendment to positively recite recorded data may result in restriction due to original presentation if the amended invention is directed to a patentably distinct invention.

With regard to claims 2 and 17, the Examiner deems these claims to be product-by-process claims. It has been held that "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." Please see MPEP 2112 and *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). Given the fact that the Examiner has

provided a recording medium utilizing an organic compound substantially identical to that claimed, the Examiner deems that the product will inherently be identical.

Additionally, the Examiner notes that the recording layer containing the imide compound can be formed by spin coating (col. 107, lines 19-27); furthermore, the Examiner notes that applicants observed a shorter wavelength of a formed film when the film was formed from a chloroform solution (see applicants' specification page 138, lines 24-26). Ogiso et al. disclose using chloroform to dissolve their dyes for the purpose of forming a recording layer on a substrate (col. 107, line 40-41). Given the fact that Ogiso et al. disclose organic dyes identical to that claimed, a solvent identical to that disclosed, and a coating process identical to that claimed, the Examiner deems that the organic compound of Ogiso et al. will inherently display a maximum absorption wavelength as a thin film that is shifted to a shorter wavelength as compared to the dye in solution as claimed.

With regard to claims 4, 23, and 24, the Examiner notes that these limitations are intended use limitations, which are not dispositive of patentability. Given the fact that the Examiner has provided an optical recording medium identical to that claimed, the Examiner deems that the optical recording medium of Ogiso et al. meet the limitations of these claims.

With regard to claim 11, substituents R₁₀₁ to R₁₀₅, which read on applicants' R₃₁ to R₃₅, may be a substituted or unsubstituted alkoxy or a substituted or unsubstituted heteroaryloxy, which read on the alkoxy group having a heterocyclic residue containing at least one heteroatom (col. 65, lines 22 and 34-35). For the substituted or

unsubstituted heteroaryloxy please see col. 39, line 28-45, and for the substituted or unsubstituted alkoxy please see 2-piperidylethoxy (col. 29, lines 33-37 and col. 31, line 47).

With regard to claim 12, the Examiner is interpreting the transitional phrase "constituting" as "comprising" for the purposes of examination. Additionally, the Examiner is interpreting the claim as directed to the atom directly adjacent to the location at which any of R_{26} to R_{35} is attached. It is clear to the Examiner that the atom directly adjacent to the location at which any of R_{26} to R_{35} is attached will be one of the atoms listed (col. 65, lines 17-45).

With regard to claims 13-16, the Examiner also regards the limitations of these claims to be functional limitations of the optical recording medium of claim 1. Similar to the rationale provided above with regard to claim 1, these claimed functional limitations are deemed to be inherent characteristics of the prior art since the prior art is substantially identical in composition and/or structure.

10. Claims 1-4, 13-17, 23, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Shoda et al. (US 2002/0051941).

With regard to claim 1, Shoda et al. disclose an optical recording medium with a recording layer that comprises a chelate dye comprising two or more azo compounds (Abstract). The chelate dye reads on applicants' organic compound of claim 1.

The limitations concerning the percentage change of the thickness of the recording layer before and after recording as well as the absolute change in thickness of

the recording layer before and after recording are functional limitation(s). As defined in the MPEP, "[a] functional limitation is an attempt to define something by what it does, rather than by what it is (e.g., as evidenced by its specific structure or specific ingredients). There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971)" – MPEP § 2173.05(g). However, the Examiner notes that "where the Patent Office has reason to believe that a functional limitation asserted to be critical for establishing novelty in the claimed subject matter may, in fact, be an ***inherent characteristic of the prior art***, it possesses the authority to require the applicant to prove that the subject matter shown to be in the prior art does not possess the characteristics relied on" (emphasis added) - MPEP § 2173.05(g).

In the instant case, the claimed limitation(s) concerning the percentage change of the thickness of the recording layer before and after recording as well as the absolute change in thickness of the recording layer before and after recording are functional limitation(s) and are deemed to be an inherent characteristic of the prior art since the prior art is substantially identical in composition and/or structure. The Examiner's sound basis for this assertion is that the compounds disclosed in Shoda et al. read on the claimed compounds.

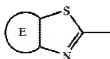
The Examiner notes that the presently claimed invention also fails to explicitly recite any recorded data, merely requiring that the recording layer be "capable of" recording and playback. Since there is no explicit recitation of recorded data, the

percentage change of thickness across the entire surface of the recording medium is necessarily 0%, reading on the claimed limitations. An amendment to positively recite recorded data may result in restriction due to original presentation if the amended invention is directed to a patentably distinct invention.

With regard to claims 2 and 17, the Examiner deems these claims to be product-by-process claims. It has been held that "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." Please see MPEP 2112 and *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). Given the fact that the Examiner has provided a recording medium utilizing an organic compound identical to that claimed, the Examiner deems that the product will inherently be identical.

Additionally, the Examiner notes that the recording layer may be formed by a spinner method [0088], which is a coating method.

With regard to claim 3, the azo compounds are selected from general formulas (I) and (II) [0010], wherein ring A and ring C are preferentially of the form of formula (V) seen at [0020].



(V)

In this structure the ring E may be a 6-membered ring, including a diazine ring [0021] and [0022]. A diazine ring has 4 carbon atoms and 2 nitrogen atoms. The substituents on the ring E include those seen at [0016], including an amino group.

With regard to claims 4, 23, and 24, the Examiner notes that these limitations are intended use limitations, which are not dispositive of patentability. Given the fact that the Examiner has provided an optical recording medium identical to that claimed, the Examiner deems that the optical recording medium of Shoda et al. meet the limitations of these claims.

With regard to claims 13-16, the Examiner also regards the limitations of these claims to be functional limitations of the optical recording medium of claim 1. Similar to the rationale provided above with regard to claim 1, these claimed functional limitations are deemed to be inherent characteristic of the prior art since the prior art is substantially identical in composition and/or structure.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-17, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogiso et al. (WO 03/035407) of which US 7,259,260 is a US national

stage entry and will be used as a translation herein, as evidenced by STN search history as applied above, and further in view of Russell (3,501,586).

With regard to claims 1, 3, and 5-10, Ogiso is relied upon as described above in section 9.

The Examiner notes that the imide compound of formula 10 is formed onto a substrate to form an optical recording medium (col. 106, lines 13-24); and while the Examiner maintains that there is sufficient specificity to anticipate the claimed invention, the Examiner acknowledges that Ogiso et al. do not specifically disclose the functional limitations of claim 1.

The Examiner notes that the functional limitations are intended to preclude formation of a recorded mark using thermal deformation, i.e. the formation of pits or protuberances, but instead forming a recording mark by utilizing a color change of the organic compound.

Russell discloses that it is known in the art to record data by means of photographically encoding data in the form of spots of different colors (col. 4, lines 15-27). This is a recording process that does not utilize thermal deformation to form pits or marks of a differing physical nature (i.e. no difference in thickness).

Since Ogiso et al. and Russell are drawn to optical recording media; it would have been obvious to one having ordinary skill in the art at the time the invention was made to record on the medium of Ogiso et al. using the method of Russell. One of ordinary skill would understand that recording of data by color change is ubiquitous in the art and would have been within the understanding of one having ordinary skill.

Russell discloses a motivation for using his recording method at col. 2, lines 23-44, wherein he states that the information can be easily reproduced, has a longer lifetime, and has a higher signal-to-noise.

Claims 2, 4, 11-17, 23, and 24 are rejected for the reasons noted above in section 9.

Double Patenting

13. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

14. Claims 1-17, 23, and 24 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 7,405,030.

Although the conflicting claims are not identical, they are not patentably distinct from each other because they are both drawn to optical recording media utilizing recording layers comprised of dyes of the quinazoline-4-one type structure.

Applicant's attention is drawn to MPEP 804 where it is disclosed that "the specification can always be used as a dictionary to learn the meaning of a term in a patent claim." *In re Boylan*, 392 F.2d 1017, 157 USPQ 370 (CCPA 1968). Further, those portions of the specification which provide support for the patent claims may also be examined and considered when addressing the issue of whether a claim in an application defines an obvious variation of an invention claimed in the patent. (underlining added by examiner for emphasis) *In re Vogel*, 422 F.2d 438, 164 USPQ 619,622 (CCPA 1970).

Consistent with the above underlined portion of the MPEP citation, attention is drawn to page 190 of the specification of Patent 7,405,030 which discloses coating the recording layer dyes using a chloroform solvent. Therefore, it would have been obvious to one of ordinary skill in the art to coat the dyes in a chloroform solvent as presently claimed, which therefore read on pending claims 2 and 17; however, the copending claims do not specifically teach the substituted or unsubstituted amino group being attached to the quinoxalin-4-one compound.

The copending claims disclose that any of the substituents may be a substituted or unsubstituted amino, and therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the amino bonded

quinoxolin-4-one compounds of the pending claims. The results would have been predictable to one having ordinary skill in the art.

With regard to claims 4, 13-16, 23, and 24, the Examiner notes these claims are intended use and/or functional limitations, which are not dispositive of patentability; furthermore, the copending claims are open to any of the intended use limitations as claimed and would appear to necessarily meet the claimed functional limitations.

15. Claims 1-17, 23, and 24 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent No. 7,405,030.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under

35 U.S.C. 103(a). See MPEP § 706.02(I)(1) and § 706.02(I)(2). Please see section 15 above for the rationale behind this rejection.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Examiner has cited an additional reference (JP 2003-145939), which uses diazine type ring structures in optical recording media, and US 2003/0179694, which shows that recording laser powers of 6 mW are known in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GERARD T. HIGGINS whose telephone number is (571)270-3467. The examiner can normally be reached on M-Th 10am-8pm est. (Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Bernatz, acting SPE for Carol Chaney, can be reached on 571-272-1505. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GERARD T. HIGGINS
Examiner
Art Unit 1794

/G. T. H./
Examiner, Art Unit 1794

/Kevin M Bernatz/
Acting SPE of Art Unit 1794

April 24, 2009